

House Bill 619

By: Representative Cox of the 102nd

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, so as to repeal the creation and powers and duties of the County and Municipal Probation Advisory Council; to provide that private companies contracting for probation services shall register with the Secretary of State and pay an annual registration fee; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 8 of Title 42 of the Official Code of Georgia Annotated, relating to probation, is amended by revising subsection (a) of Code Section 42-8-100, relating to agreements between chief judges of county courts or judges of municipal courts and corporations, enterprises, or agencies for probation services, as follows:

"(a) As used in this article, the term:

(1) ~~'Council' means the County and Municipal Probation Advisory Council created under Code Section 42-8-101.~~

~~(2)~~ 'Private probation officer' means a probation officer employed by a private corporation, private enterprise, private agency, or other private entity that provides probation services.

~~(3)~~(2) 'Probation officer' means a person employed to supervise defendants placed on probation by a county or municipal court for committing an ordinance violation or misdemeanor."

SECTION 2.

Said chapter is further amended by repealing Code Section 42-8-101, relating to the County and Municipal Probation Advisory Council and designating said Code section as reserved.

SECTION 3.

Said chapter is further amended by revising Code Section 42-8-102, relating to uniform professional standards and uniform contract standards, as follows:

"42-8-102.

(a) The uniform professional standards contained in this subsection shall be met by any person employed as and using the title of a private probation officer or probation officer. Any such person shall be at least 21 years of age at the time of appointment to the position of private probation officer or probation officer and must have completed a standard two-year college course or have four years of law enforcement experience; provided, however, that any person employed as a private probation officer as of July 1, 1996, and who had at least six months of experience as a private probation officer or any person employed as a probation officer by a county, municipality, or consolidated government as of March 1, 2006, shall be exempt from such college requirements. Every private probation officer shall receive an initial 40 hours of orientation upon employment and shall receive 20 hours of continuing education per annum ~~as approved by the council~~, provided that the 40 hour initial orientation shall not be required of any person who has successfully completed a probation or parole officer basic course of training certified by the Peace Officer Standards and Training Council or any private probation officer who has been employed by a private probation corporation, enterprise, or agency for at least six months as of July 1, 1996, or any person employed as a probation officer by a county, municipality, or consolidated government as of March 1, 2006. In no event shall any person convicted of a felony be employed as a probation officer or utilize the title of probation officer.

(b) The uniform contract standards contained in this subsection shall apply to all private probation contracts executed under the authority of Code Section 42-8-100. The terms of any such contract shall state, at a minimum:

(1) The extent of the services to be rendered by the private corporation or enterprise providing probation supervision;

(2) Any requirements for staff qualifications, to include those contained in this Code section as well as any surpassing those contained in this Code section;

(3) Requirements for criminal record checks of staff ~~in accordance with the rules and regulations established by the council~~;

(4) Policies and procedures for the training of staff ~~that comply with rules and regulations promulgated by the council~~;

(5) Bonding of staff and liability insurance coverage;

(6) Staffing levels and standards for offender supervision, including frequency and type of contacts with offenders;

(7) Procedures for handling the collection of all court ordered fines, fees, and restitution;

(8) Procedures for handling indigent offenders to ensure placement of such indigent offenders irrespective of the ability to pay;

(9) Circumstances under which revocation of an offender's probation may be recommended;

(10) Reporting and record-keeping requirements; and

(11) Default and contract termination procedures.

(c) The uniform contract standards contained in this subsection shall apply to all counties, municipalities, and consolidated governments that enter into agreements with a judge to provide probation services under the authority of Code Section 42-8-100. The terms of any such agreement shall state at a minimum:

(1) The extent of the services to be rendered by the local governing authority providing probation services;

(2) Any requirements for staff qualifications, to include those contained in this Code section;

(3) Requirements for criminal record checks of staff ~~in compliance with the rules and regulations established by the council;~~

(4) Policies and procedures for the training of staff ~~that comply with the rules and regulations established by the council;~~

(5) Staffing levels and standards for offender supervision, including frequency and type of contacts with offenders;

(6) Procedures for handling the collection of all court ordered fines, fees, and restitution;

(7) Circumstances under which revocation of an offender's probation may be recommended;

(8) Reporting and record-keeping requirements; and

(9) Default and agreement termination procedures.

~~(d) The council shall review the uniform professional standards and uniform contract and agreement standards contained in subsections (a), (b), and (c) of this Code section and shall submit a report on its findings to the General Assembly. The council shall submit its initial report on or before January 1, 2007, and shall continue such reviews every two years thereafter. Nothing contained in such report shall be considered to authorize or require a change in the standards without action by the General Assembly having the force and effect of law. This report shall provide information which will allow the General Assembly to review the effectiveness of the minimum professional standards and, if necessary, to revise these standards. This subsection shall not be interpreted to prevent the council from making recommendations to the General Assembly prior to its required review and report."~~

SECTION 4.

Said chapter is further amended by revising Code Section 42-8-103, relating to quarterly report to judge and council, as follows:

"42-8-103.

(a) Any private corporation, private enterprise, or private agency contracting to provide probation services or any county, municipality or consolidated government entering into an agreement under the provisions of this article shall provide to the judge with whom the contract or agreement was made ~~and the council~~ a quarterly report summarizing the number of offenders under supervision; the amount of fines, statutory surcharges, and restitution collected; the number of offenders for whom supervision or rehabilitation has been terminated and the reason for the termination; and the number of warrants issued during the quarter, in such detail as the ~~council~~ judge may require.

(b) All records of any private corporation, private enterprise, or private agency contracting to provide services or of any county, municipality, or consolidated government entering into an agreement under the provisions of this article shall be open to inspection upon the request of the affected county, municipality, consolidated government, court, or the Department of Audits and Accounts, ~~or the council or its designee."~~

SECTION 5.

Said chapter is further amended by revising subsection (a) of Code Section 48-8-106, relating to confidentiality of records, as follows:

"(a) All reports, files, records, and papers of whatever kind relative to the supervision of probationers by a private corporation, private enterprise, or private agency contracting under the provisions of this article or by a county, municipality, or consolidated government providing probation services under this article are declared to be confidential and shall be available only to the affected county, municipality, or consolidated government, the judge handling a particular case, or the Department of Audits and Accounts, ~~or the council or its designee."~~

SECTION 6.

Said chapter is further amended by revising Code Section 42-8-107, relating to registration with the council, as follows:

"42-8-107.

(a)(~~1~~) All private corporations, private enterprises, and private agencies contracting or offering to contract for probation services shall register annually with the ~~council~~ Secretary of State before entering into or renewing any contract to provide services. The information included in such registration shall include the name of the corporation, enterprise, or

agency, its principal business address and telephone number, the name of its agent for communication, and ~~other information in such detail as the council may require~~ a notarized statement that the corporation or enterprise is in compliance with the provisions of Code Section 42-8-102. An annual ~~No~~ registration fee of \$500.00 shall be required.

~~(2)(b)~~ Any private corporation, private enterprise, or private agency required to register under the provisions of ~~paragraph (1)~~ subsection (a) of this ~~subsection~~ Code section which fails or refuses to do so shall be subject to revocation of any existing contracts, ~~in addition to any other fines or sanctions imposed by the council.~~

~~(b)(1)~~ All counties, municipalities, and consolidated governments agreeing or offering to agree to establish a probation system shall register with the council before entering into an agreement with the court to provide services. The information included in such registration shall include the name of the county, municipality, or consolidated government, the principal business address and telephone number, a contact name for communication with the council, and other information in such detail as the council may require. ~~No registration fee shall be required.~~

~~(2)~~ Any county, municipality, or consolidated government required to register under the provisions of paragraph (1) of this subsection which fails or refuses to do so shall be subject to revocation of existing agreements, in addition to any other sanctions imposed by the council.

(c) The Department of Audits is authorized to audit any registered private corporation or agency providing probation services under this Code section to ensure compliance with the uniform professional standards provided in Code Section 42-8-102. The Department of Audits shall submit its findings to the Secretary of State. The Secretary of State may, upon determining that an entity is not in compliance with such uniform professional standards, terminate the entity's registration."

SECTION 7.

Said chapter is further amended by revising subsection (b) of Code Section 42-8-108, relating to the applicability of the article to contractors for probation services, as follows:

"(b) The standards contained in this subsection shall be met by all counties, municipalities, or consolidated governments entering into written agreements to provide probation services to any court under the authority of Code Section 42-8-100 on or after July 1, 2006. Any county, municipality, or consolidated government which fails to meet the standards established in this subsection on or after July 1, 2006, shall not be eligible to provide probation services. All counties, municipalities, or consolidated governments which enter into written agreements to provide probation services under the authority of Code Section 42-8-100 on or after July 1, 2006, shall:

- 167 (1) Register with the ~~council~~ Secretary of State;
- 168 (2) Meet the requirements of subsection (c) of Code Section 42-8-102; and
- 169 (3) Employ at least one person who is responsible for the direct supervision of probation
- 170 officers employed by the governing authority who shall have at least five years'
- 171 experience in corrections, parole, or probation services; provided, however, that the
- 172 five-year experience requirement shall not apply to any such supervisor employed by a
- 173 county, municipality, or consolidated government which was engaged in the provision
- 174 of probation services on April 15, 2006."

175 **SECTION 8.**

176 All laws and parts of laws in conflict with this Act are repealed.